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EXTRAORDINARY

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PART II—Section 1

प्राधिकार से प्रकाशित

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NEW DELHI, SATURDAY, JANUARY 2, 1993/PAUSA 12, 1914

भाग में निम्न पृष्ठ संख्या दी जाती है जिससे कि यह प्रलग संकलन के रूप में रखा जा सके ।

Separate paging is given to this Part in order that it may be filed as a separate compilation

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 2nd January, 1993/Pausa 12, 1914 (Saka)

THE INTEREST ON DELAYED PAYMENTS TO SMALL SCALE AND ANCILLARY INDUSTRIAL UNDERTAKINGS ORDINANCE 1993

No. 4 OF 1993

Promulgated by the President in the Forty-third Year of the Republic of India.

An Ordinance to provide for and regulate the payment of interest on delayed payments to small scale and ancillary industrial undertakings and for matters connected therewith or incidental thereto.

WHEREAS the Interest on Delayed Payments to Small Scale and Ancillary Industrial Undertakings Ordinance, 1992 to provide for the aforesaid matters was promulgated by the President on the 23rd day of September, 1992;

AND WHEREAS the Interest on Delayed Payments to Small Scale and Ancillary Industrial Undertakings Bill, 1992 was introduced in the House of the People to replace the said Ordinance, but has not been passed;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

Short
title,
extent
and
commence-
ment

1. (1) This Ordinance may be called the Interest on Delayed Payments to Small Scale and Ancillary Industrial Undertakings, Ordinance 1993.

(2) It extends to the whole of India, except the State of Jammu and Kashmir.

(3) It shall be deemed to have come into force on the 23rd day of September, 1992.

Defini-
tions.

2. In this Ordinance, unless the context otherwise requires,—

(a) "ancillary industrial undertaking" has the meaning assigned to it by clause (aa) of section 3 of the Industries (Development and Regulation) Act, 1951;

65 of 1961.

(b) "appointed day" means the day following immediately after the expiry of the period of thirty days from the day of acceptance or the day of deemed acceptance of any goods or any services by a buyer from a supplier;

Explanation.—For the purposes of this clause,—

(i) "the day of acceptance" means,—

(a) the day of the actual delivery of goods or the rendering of services; or

(b) where any objection is made in writing by the buyer regarding acceptance of goods or services within thirty days from the day of the delivery of goods or the rendering of services, the day on which such objection is removed by the supplier;

(ii) "the day of deemed acceptance" means, where no objection is made in writing by the buyer regarding acceptance of goods or services within thirty days from the day of the delivery of goods or the rendering of services, the day of the actual delivery of goods or the rendering of services;

(c) "buyer" means whoever buys any goods or receives any services from a supplier for consideration;

(d) "goods" means every kind of movable property other than actionable claims and money;

(e) "small scale industrial undertaking" has the meaning assigned to it by clause (j) of section 3 of the Industries (Development and Regulation) Act, 1951;

65 of 1951.

(f) "supplier" means an ancillary industrial undertaking or a small scale industrial undertaking holding a permanent registration certificate issued by the Directorate of Industries of a State or Union territory.

Liability
of buyer
to make
payment

3. Where any supplier supplies any goods or renders any services to any buyer, the buyer shall make payment therefor on or before the date agreed upon between him and the supplier in writing or, where there is no agreement in this behalf, before the appointed day.

4. Where any buyer fails to make payment of the amount to the supplier, as required under section 3, the buyer shall, notwithstanding anything contained in any agreement between the buyer and the supplier or in any law for the time being in force, be liable to pay interest to the supplier on that amount from the appointed day or, as the case may be, from the date immediately following the date agreed upon, at such rate which is five per cent. points above the floor rate for comparable lending.

Date from which and rate at which interest is payable.

Explanation.—For the purposes of this section, “floor rate for comparable lending” means the highest of the minimum lending rates charged by scheduled banks (not being co-operative banks) on credit limits in accordance with the directions given or issued to banking companies generally by the Reserve Bank of India under the Banking Regulation Act, 1949.

10 of 1949.

5. Notwithstanding anything contained in any agreement between a supplier and a buyer or in any law for the time being in force, the buyer shall be liable to pay compound interest (with monthly rests) at the rate mentioned in section 4 on the amount due to the supplier.

Liability of buyer to pay compound interest.

6. The amount due from a buyer, together with the amount of interest calculated in accordance with the provisions of section 4 and 5, shall be recoverable by the supplier from the buyer by way of a suit or other proceeding under any law for the time being in force.

Recovery of amount due.

7. No appeal against any decree, award or other order shall be entertained by any court or other authority unless the appellant (not being a supplier) has deposited with it seventy-five per cent. of the amount in terms of the decree, award or, as the case may be, other order in the manner directed by such court or, as the case may be, such authority.

Appeal.

8. Where any buyer is required to get his annual accounts audited under any law for the time being in force, such buyer shall specify the amount together with the interest in his annual statement of accounts as remains unpaid to any supplier at the end of each accounting year.

Requirement to specify unpaid amount with interest in the annual statement of accounts.

43 of 1961.

9. Notwithstanding anything contained in the Income-tax Act, 1961, the amount of interest payable or paid by any buyer, under or in accordance with the provisions of this Ordinance, shall not, for the purposes of computation of income under that Act, be allowed as deduction.

Interest not to be allowed as deduction from income.

10. The provisions of this Ordinance shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Over-riding effect.

Repeal
and
saving.

11. (1) The Interest on Delayed Payments to Small Scale and Ancillary Industrial Undertakings Ordinance, 1992 is hereby repealed. Ord. 15 of 1992.

(2) Notwithstanding such repeal, anything done or any action taken under the Ordinance so repealed shall be deemed to have been done or taken under the corresponding provisions of this Ordinance.

SHANKER DAYAL SHARMA,
President.

K. L. MOHANPURA,
Secy. to the Govt. of India.